

United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GPNE CORP.,) Case No.: 12-CV-02885-LHK
Plaintiff,)
v.) ORDER ON PARTIES' OBJECTIONS
APPLE, INC.,) TO DISCLOSURES REGARDING
Defendant.) DINAN AND BIRKETT

On October 5, 2014, Apple filed objections to GPNE's disclosures. ECF No. 418. On October 5, 2014, GPNE filed a response. ECF No. 420-4. After reviewing the parties' briefing, considering the record in the case, and balancing the considerations set forth in Federal Rule of Evidence 403, the Court rules on GPNE's objections as follows:

GPNE “objects to Apple’s bulk objection to 11 separate demonstratives and two exhibits styled as one high priority objection.” ECF No. 420-4 at 1. The parties may object to only 3 total exhibits per witness, pursuant to the Court’s order. *See* ECF No. 327. Here, the Court will entertain Apple’s objections to 11 demonstratives for Dr. Dinan because GPNE has disclosed 160 total demonstratives for Dr. Dinan. Moreover, the Court notes that demonstratives should not be used as a mechanism to circumvent the parties’ discovery obligations. Failure to produce timely discovery cannot be cured by merely claiming the inadmissible exhibit is a demonstrative.

APPLE OBJECTION	COURT'S RULING ON OBJECTION
Dinan	
Slide 53, DTX 400	Sustained.
Slide 54, DTX 142	Sustained.
Slide 56	OVERRULED.
Slide 57	Sustained as to photo of test equipment in bottom right corner. Otherwise overruled.
Slide 96	Sustained as to the photos of test equipment above the headings “Certifications” and “Personally Tested.” OVERRULED as to the ETSI Standard.
Slide 126	Sustained as to photo of Agilent test equipment and adjacent screenshot. Otherwise overruled.
Slides 99, 102, 111	Sustained.
Slide 101	OVERRULED.
Slide 158	OVERRULED.
Slides 45, 46, 48, and animation	OVERRULED.
GPNE's use of any admitted exhibits	Sustained. The parties must identify any exhibits to be used with a witness. GPNE's use of exhibits for Dr. Dinan and Dr. Birkett are limited to the exhibits that GPNE identified to Apple.
Birkett	
Slide 11	Sustained.

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GPNE OBJECTION	COURT'S RULING ON OBJECTION
DTX 164	OVERRULED.

Apple also seeks to seal the courtroom from Dr. Dinan and the general public during portions of Dr. Birkett's testimony. *See* ECF No. 418 at 6. In light of the parties' statements regarding potential agreements on Apple's sealing request, the parties shall be prepared to address this issue (and specifically, whether to limit the disputed material to the jury screens) at the end of the day on October 7, 2014.

IT IS SO ORDERED.

Dated: October 6, 2014



LUCY H. KOH
United States District Judge